IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.B.KOSHY
&
THE HONOURABLE MRS. JUSTICE K.HEMA

WEDNESDAY, THE 19TH SEPTEMBER 2007 / 28TH BHADRA 1929

MFA.No. 807 of 2001()

OPMV.1060/1995 of MOTOR ACCIDENT CLAIMS TRIBUNAL, THALASSERY
.....

APPELLANT/PETITIONER:

ANDRU ALIAS ABDURAHIMAN, S/o.KUNHABDULLA,
AGED 35 YEARS, RESIDING AT THARIPPADATH HOUSE,
IRINGANNUR AMSOM, DESOM,P.O.,
IRINGANNUR, PIN. 673 514.

BY ADV. SRI.B.KRISHNAN
SRI.R.PARTHASARATHY

RESPONDENTS/RESPONDENTS:
----

1. **K.BALAN, S/o. CHATHU, AGE NOT KNOWN,**
   RESIDING AT MADATHUM THAZHA HOUSE,
   P.O.KIDANJI, KARIYAD, THALASSERY TALUK.
   (OWNER OF JEEP KL.13-A-5546).

2. **V. MADHUSIIDHANAN, S/o.NANU, AGED 26 YEARS,**
   RESIDING AT VAZHAYIL HOUSE, PULIYANAMBRAM,
   PIN. 670 675, VIA. PERINGATHUR, THALASSERY TALUK
   (DRIVER OF JEEP KL.13-A-5546).

3. **THE UNITED INDIA INSURANCE COMPANY LIMITED,**
   BRANCH OFFICE, P.O., THALASSERY, PIN. 670 101
   (INSURER OF JEEP KL. 13-A-5546).

R1 & R2 BY ADV. SRI.M.P.ASHOK KUMAR
R3 BY SRI.P.MURALEEDHARAN
SRI.P.NARAYANAN

THIS MISC. FIRST APPEAL HAVING BEEN FINALLY HEARD ON 19/09/2007 , THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

J.B. KOSHY & K. HEMA, JJ.

M.F.A.No. 807 of 2001

Dated this the 19th day of September, 2007.

JUDGMENT

Koshy, J:

Appellant met with a serious accident on 4.12.1994 and he claimed Rs.15 lakhs as compensation contending that the accident occurred due to the negligence of the 2nd respondent, the driver of the jeep insured with the 3rd respondent Insurance Company. But, the Tribunal has granted only Rs.1,11,000/- out of which Rs.45,000/- was towards reimbursement of medical bills. The coverage of the vehicle as well as entitlement of claimant to receive compensation awarded from the 3rd respondent etc. are not disputed.

2. The only dispute is regarding quantum of compensation. It is the case of the appellant that he was employed in a gulf country and was getting U.A.E. Dhs. 1800/- per month. It is equivalent to 15,000/- rupees considering the rate of exchange on the date of accident. He produced Ext.A15 salary certificate issued from A1-Radar Readymade Garments, Dubai according to which he was employed in the establishment as Salesman from 1.9.89 to 21.9.1994 and his service were terminated as he did not re-join

duty within the four months' period of leave granted. Ext.A14 is the passport which shows that he was working in Dubai for four years. But, the Tribunal held that Ext.A15 certificate was not proved. But the fact that he was employed in Dubai can be seen from the passport. The Tribunal has taken Rs.1500/- as the monthly income. Even if he was employed in India as a Salesman, he would have at least got Rs.3000/- per month. We are of the opinion that considering this aspect, Rs.3000/- ought to have been taken as monthly income for calculation of compensation. As a result of the accident, he suffered fracture of fibula and tibia and there was also injury to posterior tibial and anterior tibial artery. He was an inpatient for 26 days. Two operations were conducted and he was under treatment for 9 months. Moreover, the permanent disability certificate produced would show that his permanent disability is 10%. The Tribunal accepted the same and granted Rs.30,600/- for disability and loss of earning power, taking 1500 as monthly income. Since we doubled the monthly income to Rs.3000/-, he is entitled to additional compensation of Rs.30,600/- on that count. He was under treatment for 6 months and was granted Rs.9000/- for loss of actual income during the treatment period. Since we have doubled the income, he is entitled to another Rs.9000/- on that count. Rs.10,000/- was granted for pain and suffering. The actual medical reimbursement was granted. Hence, we are of opinion that a reasonable compensation was granted in other

heads. Additional amount of Rs.39,600/- shall be deposited by the 3rd respondent Insurance Company over and above the decreed amount by the Tribunal with 7.5% interest from the date of application till deposit. On deposit, the appellant is entitled to withdraw the same.

Appeal is partly allowed.

SD/-

J.B.KOSHY,
JUDGE.

SD/-
K. HEMA,
JUDGE.

Krs.

J.B. KOSHY & K. HEMA, JJ.

M.F.A.No. 807 of 2001

Dated this the 19th day of September, 2007.

JUDGMENT